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ON PAGE 1-A

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Justice: Plea deals won't buy spies time

By Bill Gertz
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Americans convicted of spying will spend "long, hard time" in prison despite "plea bargaining" deals they might cut, the Justice Department's top spy prosecutor says.

"There are no bargains when it comes to the kinds of pleas we negotiate," internal security chief John L. Martin said in an interview last week. "We don't take these things lightly, we drive very, very hard agreements and we look after the interests of the United States — not after the interests of defendants."

Espionage defendants who plea bargain, he said, are required to cooperate fully in intelligence community damage assessments, to identify all co-conspirators, to reveal all cash received and to testify in all relevant court cases.

Navy Secretary John Lehman blasted the Justice Department last year for its plea bargain in the case of convicted spy John A. Walker Jr. and his son, Michael.

The Walkers pleaded guilty to espionage and agreed to cooperate with the government.

In return, the government agreed that John Walker would be sentenced to serve two life sentences and a 10-year term concurrently, which would make him technically eligible for parole after ten years. His son would be sentenced to a 25-year term.

A judge has conditionally approved the sentences, pending the Walkers' continued cooperation in the trial of another accused spy,

Jerry A. Whitworth, due to open in San Francisco today.

Mr. Martin would not comment directly on the Walker case, but said plea bargains in spy cases are decided after consultations among several U.S. agencies.

"A life sentence is a life sentence is a life sentence," he said. "Whether you get three life sentences, or whether you get one, you're eligible for parole in ten years and eligibility for parole does not mean you will be paroled. Espionage defendants who are convicted serve long, hard time."

Mr. Martin said last year's spate of espionage cases represented the culmination of government policies that began more than seven years ago. Until then, he said, intelligence officials had backed off prosecuting spies because they believed prosecutions would destroy any chance of finding out what damage the spies had inflicted.

• But Mr. Martin said government prosecution and intelligence efforts to assess a spy's damage are complementary concerns.

"If you do the investigation [and]

the prosecution right, you can have your cake and eat it too," he said. "If you know what has been passed, to whom it's been passed, how much has been received, how often contacts have been made, and how long [it] has been going on, you have all the facts you need for a confession and all you need for a damage assessment in the intelligence community, too."

Mr. Martin said most of the recent cases involved spies who were considered unreliable for use as double agents to undo security damage or supply false information to Soviet intelligence services.

"If you look over the list of people that have been arrested, there aren't too many good solid intelligence operatives," he said.

A former FBI counterintelligence official, Mr. Martin said no successful prosecutions of spies were brought before the federal courts between 1966 and 1975, although espionage arrests were made and some military trials took place.

Justice Department lawyers have prosecuted 47 spies since 1975, and

— apart from cases now pending and a few past military trials — "all have been disposed of favorably for the government," Mr. Martin said.

The change resulted from what Mr. Martin described as "a grass-roots effort" among the FBI, Justice Department and U.S. intelligence agencies to attempt more spy prosecutions.

"From time to time our friends in the military, intelligence and diplomatic communities say to us, 'We want a conviction, but we really don't want anything to come out [in public],' " Mr. Martin said. "That's like asking a surgeon to do an open heart operation without any pain, without any blood and with an absolute certainty of the outcome."

All spy cases involve national security risks, he said, but new laws and court procedures have helped settle interagency squabbles over whether to keep secrets or prosecute.

"That's why we do the infighting before trial instead of in front of the judge," he said.